IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 17916 of 2004(G)

PETITIONER:

THE MANAGER, PRAJYOTHI NIKETAN COLLEGE,
PUDUKKAD.

BY ADV. SRI.MATHAI M.PAIEKDAY
SRI.K.B.GANGESH
SRI.JOE JOSEPH KOCHIKUNNEL

RESPONDENTS:
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1. THE UNIVERSITY OF CALICUT,
REP. BY THE REGISTRAR, CALICUT UNIVERSITY PO.
THENHIPPALAM, KOZHIKODE.

2. THE REGISTRAR,
UNIVERSITY OF CALICUT, CALICUT UNVIERSITY P.O.
THENHIPALAM, KOZHIKODE.

3. SR.ANCY S.H. S.H.STUDY HOUSE,
BEHIND COLLECTORATE, AYYANTHOLE,
THRISSUR.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, CALICUT UTY
SRI.JOHNSON MANAYANI --- R3
SRI.PIUS K NEDUMGATTU
SRI.E.S.ASHRAF, SC, CALICUT UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 17916/2004 G

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ENQUIRY REPORT DT. 29/3/04.

EXT.P2. COPY OF THE ORDER BY THE EDUCATIONAL AGENCY OF PRAJYOTHI NIKETAN COLLEGE IN THE DISCIPLINARY PROCEEDINGS INITIATED AGAINST THE R3 DT. 12/05/04.

EXT.P3. COPY OF THE ORDER BY THE R2 ON BEHALF OF THE R1 DT. 4/6/04.

RESPONDENT'S EXHIBITS/ANENXURES

ANNEXURE R2A: COPY OF THE REPRESENTATION.

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K.BALAKRISHNAN NAIR, J.

WPC NO.17916 OF 2004-S

Judgment

The petitioner is the Manager of Prajyothi Nikethan College, Pudukad. This Writ Petition is filed by him, challenging Ext.P3 order of the 1st respondent University, directing reinstatement of the 3rd respondent in service.

2. The 3rd respondent was the Principal of the petitioner's college. In contemplation of disciplinary proceedings, she was suspended from service on 18.12.2003. The Vice Chancellor of the 1st respondent University granted permission to keep her under suspension upto 30.04.2004. It appears, the 3rd respondent moved the University, pointing out various alleged irregularities in the disciplinary proceedings and the illegality in not reinstating her even after the sanctioned period of suspension is over. The University considered the matter and issued Ext.P3 order, which reads as follows :

> "I am to inform you that on the basis of the Syndicate decision in the meeting held on 15.05.2004, you are directed to reinstate Dr.Sr.Ancy.S.H. forthwith and not to proceed with any action until the report of the enquiry conducted by a Syndicate Sub committee on the matter is finalised."

The Manager points out that the enquiry against the petitioner was finalised and the Enquiry Officer submitted Ext.P1 report as early as on 29.03.2004. The matter was considered by the disciplinary authority and Ext.P2 order dated 12.05.2004 was passed, dismissing the 3rd respondent from service. The same was communicated to the 3rd respondent on 13.05.2004. It is pointed out that only subsequently, Ext.P3 order was issued. The said communication was issued based on the decision of the Syndicate, which met on 15.05.2004. Ext.P3 is challenged on various grounds including lack of jurisdiction of the University to issue such an order. The University supports that order relying on Section 23(xx) and also Section 60(3) of the Calicut University Act. Having regard to the facts of the case, it is unnecessary to go into the merits of Ext.P3 because it was apparently issued after Ext.P2 dismissal order. Therefore, the said order has become infructuous. If the 3rd respondent is aggrieved by Ext.P2, she can move the Calicut University Appellate Tribunal under Section 60 (7) of the Calicut University Act.

The Writ Petition is disposed of as above.

08.08.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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